

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

FREDERICK W. BAUER

§

VS.

§

CIVIL ACTION NO. 5:11cv137

MICHAEL D. CARVAJAL

§

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Frederick W. Bauer, an inmate at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Caroline M. Craven, United States Magistrate Judge, at Texarkana, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge recommends the petition be denied.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the Court concludes petitioner's objections are without merit to the extent they address the above-styled habeas petition. Petitioner also asserted claims concerning the conditions of his confinement in this petition. The magistrate judge recommended dismissal without prejudice to his ability to pursue such claims by filing a separate civil rights action. While

the Court does not find petitioner's objections about previous frivolous actions meritorious, it is the opinion of the Court that these claims should be severed from this habeas petition in order to proceed as a separate civil action.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. Accordingly, it is

ORDERED that petitioner's civil rights claims asserted in grounds two, seven, and thirteen are hereby **SEVERED** from this action and shall proceed as a separate action. The Clerk of Court is directed to assign petitioner's claims to a separate civil action number. The resulting case should be assigned according to the regular practice for allotment of newly-filed civil actions.

A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

It is SO ORDERED.

SIGNED this 17th day of September, 2014.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE